/264 cont./

42
627 In the very widespread formula of the resolutory sales, improperly called rrahn, or, in the acts, thunyâ, and which correspond to a very ancient landed-property mode of this milieu, the debtor, who is also the owner of the land, has available a means
[692] of interrupting automatically the right of the lessee. This is /265/ to deposit an "obole" /obolus/, tauqit, tamuzunt (1),

> 1. And moreover istiman and l'arbûn. Evidently the idea of deposit itself has a very complex past and meaning. Still without any idea of systematic comparison, and, if one wishes, only for "curiosity," let us say that certain aspects of this tamuzunt of the Chleuhs /Shluh/ are not free from suggesting the formality of the aes "whose restitution brings about liberation of the land" (H. Lévy-Bruhl, Quelques problèmes de très ancien droit romain /Some problems of very ancient Roman law/, p. 144).

in the hands of some sort of auctoritas: today a common magistrate, formerly such-and-such a fqih, notable or "marabout." In the Bas /Lower/ Seksawa the process is even more direct. When it is a question of orchards, the obole will be deposited on the pile of olives in the very course of the gathering: this puts an end to the usufruct of the lessee. Rationalist reinterpretations have naturally assimilated this procedure to a settlement by "deposit," l'arbûn. But this latter notion is itself complex. What one notices most concretely in the operation described here is that the gesture causes a break in the parties' respective situation concerning the field. As for the partimonial bond, the owner's legitimacy has never ceased. But it cut itself off from "legitimate occupation" (verb âmmer). The latter now reintegrates the initial right, an expression that we find again word for word in a writing from the eighteenth century. Henceforth, the lessee is usurping. More

/265 cont./

42 627 exactly, he henceforth assumes the personage of the usurper: itrama, new verb of condition. His interim, one might say, has ended, and the wrong inflicted on the old order by the working of monetary abundance in certain hands. And, by a new significant trait, the point of departure of the restitution depends on the time when the tamuzunt can be inserted in the agricultural calendar (2):

[171]

2. Similarly in old Kabyle law. Cf. L. Milliot, "Le qanoun d'Ighil n-Zekri /The qanoun of Ighil n-Zekri/," R. al., 1930, p. 247.

if it is after uktuber (Julian October), a new cereal campaign is permitted for the creditor. Other moments foreseen in what concerns arboriculture. One feels in all that instructive interferences between the life of nature, that of the group, and the overt mechanisms for the initiative of the individuals.

The dispossessions resulting either from a fraudulent prolongation of the rrahn or from assault are certainly numerous in the [578] Seksawa past. They have as their source inequities in the distribution of capital and power among the families. However that may be, they give rise to a violent ethical reaction. One will see shortly the consequences on the procedure itself. For the moment here is a curious form of it, improperly rigged out in the Mussulman dress of the istirᶜâ' or "act of reserves" (3).

3. Cf. the act translated and commented upon in J. Berque, "Documents anciens sur la coutume immobilière des Seksawa /Ancient documents on the landed-property customs of the Seksawa/," R. afr., 1948, p. 369.

Let us now listen to this act of the Idaw Geryun, dating from 1102 Heg.: 1691.

42 /266/ /The following paragraph is in small type in the original source./ "Let it be known to him who, if God wishes, would stop here, O family and doctors of the Mussulmans, the a. Waâziz of Alus make public and decry, raising their plaint up to the throne of Misericord, that the a. H'sayn..., that they make istirᶜâ' against them on the parcels... [The indication of a long conflict follows]... They have nothing here, and their usufruct is but usurpation. The a. Waâziz complain before the people of the Tamgonsi, large and small, men and women, free and slave..."

42 What counts here is not the "reserve" that a more evolved right would stipulate, bringing into play some theory of the vice of consent. It is the imprecatory value of the attitude. The solemnity of the expression has been noted. This cry causes "the throne of God" to shake, which recalls the very image of an old Greek formula. Doubtlessly, one addresses oneself to God and blasts an injustice. But the religious and moral coloration certainly does not go back to the most ancient base. One conjectures this base from the various gestures (1)

1. In a neighboring domain, the Gedmiwa, some of these gestures are described in an in. /unpublished/ study by Lepage, Le droit coutumier des Gedmiwa /The customary law of the Gedmiwa/.

by which the reaction of the victim is expressed still today.

This is first of all an interjection, âwqâwq. It rejects tendentious allegations, draws attention to bad faith, and appeals against the powerful. In graver cases of oppression, characterized by a continuous state, the weak one has at his disposal a crescendo of means: to carry a candle end, lqandil, to the court of the judge, to wander through the villages, the head smeared with the soot coming from the breaking of a pot or covered with a mat; to proclaim, to make public, berrh', in the markets that one is the victim of so and so. Beyond that there is emigration, a frequent

Beyond that
578 /266 cont./ there is emigration, a frequent
42 form of protest against an oppressor judged for the moment to be
166 stronger and against whom one insists on one's rights. It is in this way that the notarial practice knows "safeguard" acts, istih'fâz', most often confused with those of istir^{c}â'. Whence, moreover, the frequent allegation of absence, interruptive of prescription, in instances of a more complex and more mature turn to which the revendication of land gives rise. Evidently, the Mussulman theory of the ghayba, "imprescriptibility based on absence," has provided there only a convenient cadre for an old, local notion, both economic and ritual: the absent one is also the suppliant. His flight obscurely "obligates" the one provoking it.

578 These manifestations do not go, as in other societies, so far
562 as the man's suicide. But it is striking that the Chleuh /Shluh/
762 woman rather frequently has recourse to this genre of protestation. She hangs herself or throws herself into a cistern. And, in fact, in spite /267/ of the juridical capacity which not only the law but the mores recognize for her, and which her psychological propensity makes her exercise fully, her life in certain respects is more amenable to an extrajuridical plane than that of the man. Perhaps because of lesser communal implication: economy of the gift during the long betrothal, assiduous practice of magic, relationships of fides in the marriage state, recognized aptitude for imprecatory procedures. It is in these perspectives that it is necessary to study the act, rich in social consequences, that the suicide of the woman constitutes, an act relatively frequent, and which manifests the rupture, voluntary or not, of the bond of the
762 group. Most often it is a solemn protestation against the wrong
784 suffered. But it may also result from a disorder inflicted by
787 mysterious powers. For example, during the winter of 1953, all the women of Usikis incurred the anger of a saint by collecting herbs in the reserved meadows of the Tasila. They were seized by "demoniac" manifestations that in one or two cases went

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

by Hart (1954) for the Riffian tribe of Beni Uriaguel (Ait Wariyaghri, 99) (This description is closely followed below). Here we find each house widely separated from its neighbors – both in consideration of availability of water and adaptability for defense – and providing shelter usually for a man, his unmarried brothers and sisters, his wife or wives, and his unmarried children. This household, however, does not constitute the entire extended family; the rest of it, to be found in houses some 1000 feet distant or more, includes the man's married brothers, and their wives and unmarried children. This family, therefore, may consist of anywhere from one to ten separate households, and may number as many as fifty people, spread over three to four generations. Once the sons marry, they usually set up housekeeping on their own, but always within the family circle; married daughters go to reside with their husband's family. Once the last surviving member of the oldest generation dies off, the old extended family splits into as many new extended families as there were married brothers originally (Hart, 1954, pp. 58-59).

Ownership of property is concentrated in the hands of the family elders, who parcel it out to their married sons on a provisional or on a permanent basis. If the former, the land goes back for redistribution among all the sons after the father's death; if the latter, the favored son needs a document signed by two public notaries proving that the land is his. If there are few sons, the eldest, if he is a sensible and honest man, is usually chosen to act as property administrator for all after the death of the father. With many sons the amount of land becomes too difficult to administer as a single unit and is usually divided up among the sons. If any of the family land is held by daughters, these are usually induced to sell their holdings to their brothers upon marriage, so that these remain in the hands of the family (Hart, 1954, p. 59).

Throughout the Berber territory the extended family may in some cases enlarge its size by admitting strangers. These are usually persons in desparate financial circumstances who have had to sell their property in order to pay off a fine or a blood money debt assessed by their council, such an individual feeling ashamed to remain in his own village or fearing further reprisal, migrates to